

Appln. No.: 10/817,002
Amendment under 37 C.F.R. § 1.111

REMARKS

Claim 33 has been added and is directed to the subject matter previously in claim 5.

Claim 1 has been amended to include the recitations of claim 3, which has been canceled.

Upon entry of the Amendment, claims 1-2, and 4-33 are pending in the application.

Claims 7-9 and 11-25 have been withdrawn from consideration.

The Examiner has acknowledged Applicants' claim for foreign priority based on PCT/JP02/10252. However, the Examiner notes that he has not received a certified copy of the priority document as required under 35 U.S.C. § 119(b).

According to Mr. Paul Bell of the Legal Administration Office of the PCT Branch of the PTO, when an examiner has not received a certified copy of a priority document that was filed during the international stage, the examiners have been instructed to call the PCT Branch (which will then send the document to the examiner by e-mail). In the rare instance where the PCT Branch did not receive a priority document which was filed during the international stage, the PCT Branch will obtain the document from the International Office (WIPO), and e-mail it to the US examiner. Thus, Applicants request that the Examiner call the PCT Branch and request a certified copy of the priority document.

The Examiner asserts that the references JP 10-180922, JP 11-316309, JP 2001-174626, and JP 11-133868 listed in the PTO SB/08 Form submitted with the Information Disclosure Statement filed April 5, 2004 fail to comply with the provisions of 37 C.F.R. § 1.97 and 1.98 because the references are in Japanese.

In compliance with the concise explanation requirement under 37 C.F.R. § 1.98(a)(3) for foreign language documents, Applicants submitted a copy of the International Search Report indicating the degree of relevance found in the foreign patent office. Therefore, the Examiner should have initialed all the references listed in the PTO SB/08 Form submitted with the Information Disclosure Statement filed April 5, 2004 and Applicants respectfully request that the Examiner do so.

Claim 31 has been objected to because the word “polyolefine” should be “polyolefin.”

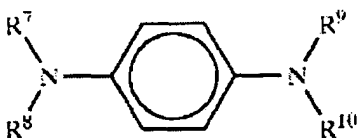
Applicants have amended claim 31 in accordance with the Examiner’s suggestion. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the objection.

Claims 3-6, 27, 28 and 31 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

The Examiner asserts that in the phrase in claim 3, “...wherein the diimmonium compound is at least one of...,” the article ‘the’ implies a single diimmonium compound, while the phrase ‘at least one’ implies the possibility of multiple diimmonium compounds.

Applicants have canceled claim 3. Accordingly, the rejection of claim 3 is moot.

Additionally, the Examiner asserts that it is unclear how the cation of claim 3 is formed

because the species  should be neutral based on the trivalent nitrogen atom shown.

It appears that there is an error in formulas (I) and (II) in claim 3 and that each nitrogen atom should have 4 bonds, which would result in a +2 valence (see the Examiner's comments on page 6 of the Office Action).

"An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of error in the specification, but also the appropriate correction." *In re Oda*, 443 F.2d 1200, 170 USPQ 268 (CCPA 1971). Applicants submit that one skilled in the art would not only recognize the existence of the error in formulas (I) and (II), but would also recognize the appropriate correction. Therefore, the amendment to formulas (I) and (II) is not new matter. Reconsideration and withdrawal of the rejection is respectfully requested.

With respect to claims 4, 5, 28 and 31, the Examiner asserts that the phrase "such as" renders the claim indefinite.

Applicants have deleted the phrase "such as" from claims 4, 5, 28 and 31. Accordingly, claims 4, 5, 28 and 31 are clear and definite and Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 1-3 have been provisionally rejected under the doctrine of obviousness-type double patenting, as allegedly being unpatentable over claims 1 and 4 of co-pending U.S. Application No. 10/696,312.

While Applicants respectfully submit that the present invention is not obvious over the claims of U.S. Application No. 10/696,312, to expedite allowance of the present Application, Applicants are submitting herewith a terminal disclaimer to obviate the obviousness-type double

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patenting rejection over the claims of U.S. Application No. 10/696,312. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 1-4, 10 and 26-32 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent Publication No. 2001/0005278 to Onomichi et al. (“Onomichi”).

Claim 1 has been amended to include formula (II) in claim 3, which has been canceled. Applicants submit that Onomichi does not disclose or suggest Applicants’ formula (II). Therefore, Applicants submit that claim 1 and the claims depending therefrom would not be obvious over Onomichi. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection.

Claims 1-6, 10, and 27-32 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by, or in the alternative under 35 U.S.C. § 103, as allegedly being obvious over U.S. Patent Publication No. 2005/0040378 to Kobayashi et al. (“Kobayashi”).

U.S. Publication No. 2005/0040378 (“Kobayashi”) is a continuation of PCT/JP02/04350. The PCT application has a filing date of May 1, 2002. The effective § 102(e) date of U.S. Publication No. 2005/0040378 would be May 1, 2002 if the PCT application designated the U.S. and published in English. It does not appear that Kobayashi published in English. Therefore, the § 102(e) date of Kobayashi would be October 30, 2003. The present application was filed on April 5, 2004, but the present application is a continuation of and claims priority from PCT/JP02/10252 filed October 2, 2002, which is earlier in time than the effective filing date of Kobayashi.

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Applicants submit herewith a sworn English-language translation of their foreign priority document PCT/JP02/10252 to perfect their claim to priority and remove Kobayashi as prior art. Applicants submit that priority document PCT/JP02/10252 supports the pending claims as shown below:

Claims	Support in PCT/JP02/10252
1	Claim 1 and Claim 3
2	Claim 2
4	Claim 4
5	Claim 5
6	Claim 6
10	Claim 10

In view of the above, Applicants respectfully request that the Examiner withdraw the §103 rejection based on Kobayashi.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

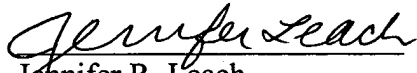
Respectfully submitted,

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